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STEPHEN PARKER

E-filing

IN THE UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

STEPHEN PARKER,

Plaintiff,

vs.

COLLECTCORP CORPORATION,

Defendant.

CV 09

Case No.:

2698

COMPLAINT AND DEMAND FOR
JURY TRIAL

(Unlawful Debt Collection Practices)

VERIFIED COMPLAINT

STEPHEN PARKER (Plaintiff), by his attorneys, KROHN & MOSS, LTD., alleges the following against COLLECTCORP CORPORATION (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788 et seq. (RFDCPA).

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy".
4. Because Defendant conducts business in the state of California, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.
6. Declaratory relief is available pursuant to *28 U.S.C. 2201 and 2202*.

PARTIES

7. Plaintiff is a natural person who resides in Alameda, Alameda County, California.
8. Plaintiff is allegedly obligated to pay a debt and is a "consumer" as that term is defined by *15 U.S.C. 1692a(3)*.
9. Defendant is a company with a business office in Phoenix, Maricopa County, Arizona.
10. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by *15 U.S.C. § 1692a(6)*.

FACTUAL ALLEGATIONS

11. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged consumer debt.
12. Defendant places collection calls to Plaintiff at the following numbers: 510-521-3027,

and 510-390-2031.

13. Defendant calls Plaintiff and fails to provide meaningful disclosure of the caller's identity.

14. Defendant calls Plaintiff and does not disclose that the call is from a debt collector.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

15. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring and engaging Plaintiff in telephone conversations repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.
- b. Defendant violated §1692d(6) of the FDCPA by placing telephone calls to Plaintiff without meaningful disclosure of caller's identity.
- c. Defendant violated §1692e(10) of the FDCPA by using false and deceptive means in the attempt to collect a debt because Defendant calls Plaintiff and does not disclose the caller's identity.
- d. Defendant violated §1692e(10) of the FDCPA by using false and deceptive means in the attempt to collect a debt because Defendant calls Plaintiff without disclosing the call is from a debt collector.
- e. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the communication was from a debt collector.

16. As a direct and proximate result of one or more or all of the statutory violations above Plaintiff has suffered emotional distress (see Exhibit A).

WHEREFORE, Plaintiff, STEPHEN PARKER, respectfully requests judgment be entered against Defendant, COLLECTCORP CORPORATION, for the following:

1 17. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection
2 Practices Act,

3 18. Statutory damages pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,

4 19. Actual damages,

5 20. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,
6 *15 U.S.C. 1692k*

7 21. Any other relief that this Honorable Court deems appropriate.

8 **COUNT II**
9 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION**
10 **PRACTICES ACT**

11 22. Defendant violated the RFDCPA based on the following:

12 a. Defendant violated §1788.11(b) of the RFDCPA by placing telephone calls
13 without disclosure of the caller's identity.

14 b. Defendant violated §1788.11(d) of the RFDCPA by causing a telephone to ring
15 repeatedly and continuously to annoy the Plaintiff.

16 c. Defendant violated §1788.11(e) of the RFDCPA by communicating with Plaintiff
17 with such frequency as to be unreasonable and to constitute harassment under the
18 circumstances.

19 d. Defendant violated the §1788.17 of the RFDCPA by continuously failing to
20 comply with the statutory regulations contained within the FDCPA, *15 U.S.C. §*
21 *1692 et seq.*

22 23. As a direct and proximate result of one or more or all of the statutory violations above
23 Plaintiff has suffered emotional distress (see Exhibit A).

1 WHEREFORE, Plaintiff, STEPHEN PARKER, respectfully requests judgment be entered
2 against Defendant, COLLECTCORP CORPORATION, for the following:

3 24. Declaratory judgment that Defendant's conduct violated the Rosenthal Fair Debt
4 Collection Practices Act,

5 25. Statutory damages pursuant to the Rosenthal Fair Debt Collection Practices Act, *Cal.*
6 *Civ. Code §1788.30(b)*,

7 26. Actual damages,

8 27. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection
9 Practices Act, *Cal. Civ Code § 1788.30(c)*, and

10 28. Any other relief that this Honorable Court deems appropriate.
11

12 **DEMAND FOR JURY TRIAL**

13 PLEASE TAKE NOTICE that Plaintiff, STEPHEN PARKER, demands a jury trial in
14 this cause of action.

15
16 RESPECTFULLY SUBMITTED,

17 DATED: June 9, 2009

KROHN & MOSS, LTD.

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19 By: /s/ G. Thomas Martin

G. Thomas Martin

20 Attorney for Plaintiff
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VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF CALIFORNIA

Plaintiff, STEPHEN PARKER, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, STEPHEN PARKER, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE: 6/9/09

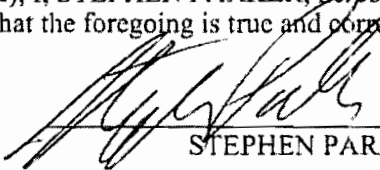

STEPHEN PARKER

EXHIBIT A

I have suffered from the following due to, or made worse by, the actions of the Defendant's debt collection activities:

- | | | |
|---|------------|----|
| 1. Sleeplessness | <u>YES</u> | NO |
| 2. Fear of answering the telephone | <u>YES</u> | NO |
| 3. Nervousness | <u>YES</u> | NO |
| 4. Fear of answering the door | <u>YES</u> | NO |
| 5. Embarrassment when speaking with family or friends | <u>YES</u> | NO |
| 6. Depressions (sad, anxious, or "empty" moods) | <u>YES</u> | NO |
| 7. Chest pains | <u>YES</u> | NO |
| 8. Feelings of hopelessness, pessimism | <u>YES</u> | NO |
| 9. Feelings of guilt, worthlessness, helplessness | <u>YES</u> | NO |
| 10. Appetite and/or weight loss or overeating and weight gain | <u>YES</u> | NO |
| 11. Thoughts of death, suicide or suicide attempts | <u>YES</u> | NO |
| 12. Restlessness or irritability | <u>YES</u> | NO |
| 13. Headache, nausea, chronic pain or fatigue | <u>YES</u> | NO |
| 14. Negative impact on my job | <u>YES</u> | NO |
| 15. Negative impact on my relationships | <u>YES</u> | NO |

Other physical or emotional symptoms you believe are associated with abusive debt collection activities: Nothing good seems to come of my continued efforts to work and negotiate with my creditors. I don't have revenue coming in to alleviate the stress of trying to catch up with my debts.

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 6/9/09

Signed Name

Stephen Parker

Printed Name